IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1744 OF 2005
IN
WRIT PETITION NO.4839 OF 1999

The State of Maharashtra & Ors. ...Petitioners

Vs.

Shri Bhagwan Krishna Mandale(since deceased) through
Smt. Akkatai Bhagwan Mandale & Ors. ...Respondents

Mr. Nargolkar, A.G.P. for Petitioners

Mr.N.V.Bandiwadekar for Respondents

CORAM: H.L.GOKHALE &
SMT.R.S.DALVI,JJ.
DATED: 12TH AUGUST, 2005

P.C.

1. Heard Mr. Nargolkar in support of this Civil Application. Mr. Bandiwadekar appears for the Respondents to the Civil Application.

2. Civil Application is filed by the State Government. The Civil Application is filed in Writ Petition No.4839 of 1999. That Petition has been filed by the State Government to challenge the order passed by the Maharashtra Administrative Tribunal on original Application No.717 of 1994 dated 29th January 1999. That order of the Tribunal set aside the order of compulsory retirement of one Bhagwan Krishna Mandale and replaced it by stoppage of increment for three years from 9th June 1994.

3. The State Government filed this Writ Petition which was admitted on 10th September 1999 and the order of Tribunal was stayed.

4. The Respondents to the Petition took out Civil Application No.2008 of 2001 for vacating interim order and the interim order came to be vacated on 21st March, 2002.

5. The State Government has now filed this Civil Application to get the ad-interim order granted earlier restored. This Civil Application is filed on 12th August, 2002. More than 3 years have gone by now. Obviously since the interim order had been vacated the order of the Tribunal must be being implemented in the meanwhile. The concerned employee having died during the course of the proceeding in the Tribunal, his Legal heirs have been brought on record and who are the Respondents to the main Writ Petition as well as to this Civil Application. They are receiving the pension. That pension must have been proportionately reduced as per the order of the Tribunal. In the event the Petition filed by the State Government succeeds, the pension will have to be re-worked on the footing that the order of compulsory retirement was correct. That can be done when the main Petition is heard and decided. There is no

reason to restore the original interim order in the Writ Petition, which has been vacated some 3 years back.

. Civil Application is rejected of accordingly.

(H.L.GOKHALE,J.)

(SMT.R.S.DALVI,J.)